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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,172	11/25/2000	Kia Silverbrook	NPS022US	3860

24011 7590 11/15/2005

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BALMAIN, 2041  
AUSTRALIA

EXAMINER

ABDULSELAM, ABBAS I

ART UNIT PAPER NUMBER

2677

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/722,172

Applicant(s)

SILVERBROOK ET AL.

Examiner

Abbas I. Abdulsalam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 6 and 9-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on 08/30/05 have been fully considered but they are not persuasive.

Applicant argues that the references applied alone or in combination do not teach “an attachment arrangement adapted to facilitate attachment and detachment of the device to and from a writing implement having a nib, the sensing device being adapted to mark the surface the nib being adapted to mark the surface”.

However, as shown in the art rejection below, Ackley's teaches a symbology reader (50) including a sensor (54), which can be one or two-dimensional CCD, semiconductor array, vidicon or other area imager. See col. 5, lines 53-55.

Yukihiro teaches a data symbol reader with a casing (2) having a head part (22) which itself has a casing (3) whose tip part is attached with a cover body (9) in a removable way. See the abstract and drawing.

Both Ackley and Yukihiro teach about sensing devices and one of ordinary skill in the art would have looked toward Yukihiro for the manner by which the sensing device is implemented.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 7-8 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackley (USPN 6152370) in view of Ehrhart et al. (USPN 6304660), and Yukihiro et al. (Japanese publication # 09-022439).

Regarding claim 1, Ackley teaches as shown in Fig. 1, a data collection symbology reader (50) including a light source (52), a sensor (54), a receiver or converter (56), processor and (60) and memory (57). See Fig. 1 Ackley discloses that the reader (50) is constructed to read and decode a bar code symbol (53) or “data collection symbols” formed as relief pattern on surfaces (col. 6, lines 1-3). Ackley defines “data collection symbols” to mean a symbol from any linear, stacked, area and other machine-readable symbology (col. 5, lines 34-39). Ackley indicates that all elements in a given profile can be identified and subsequently decoded. See col. 3, lines 47-67 and col. 1-3. Ackley teaches that a processor (60) identifies portions of a large shape signal (received from a receiver) corresponding to resolved shapes and spaces, generates an unresolved element matrix in response to the large shape signal, and produces a signal indicative of the information encoded based on the unresolved element matrix. See col. 4, lines 39-45 Referring to Fig. 3, Ackley shows that the sensor (54) having an imaging lens (221) and an array of photo- detectors (222) producing a signal analogous to a reflectance profile (Fig. 4B). Ackley defines a profile to mean analog signal corresponding to a spatial representation of bars

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and spaces in a relief formed symbol. See col. 6, lines 37-59. In addition, Ackley's symbology reader (50) includes a sensor (54), which can be one or two-dimensional CCD, semiconductor array, vidicon or other area imager. See col. 5, lines 53-55.

However, Ackley does not teach generation of "region data indicative of the identity of the region using the coded data".

Ehrhart on the other hand teaches an apparatus including a material detection imaging assembly, which may detect material on a document by detecting transmissivity characteristics, or by sensing radiation emission characteristics of the document. Ehrhart teaches a controller of the apparatus that is in communication with a lookup table correlates ticket identification codes with indicators. For example, referring to Fig. 3.1, Ehrhart teaches a system (302) is adapted to capture images that can be processed to determine the regions in a play area of a game ticket in which scratch-off material has been removed (col. 9, lines 48-51). Ehrhart discloses a system (330) including scratch of material (331) of a game ticket (202-3-4) that is provided with an additive that emits radiant energy in a second band of wavelength when radiated by radiant energy in a first band of wavelengths. Ehrhart illustrates that the system (330) is controlled by a processor-based control unit, which controls a 1.times.N pixel array image sensor, and captures image data from image signals generated by sensor (334). Ehrhart adds that the controller also controls a transport mechanism for transporting a document across a field of view of sensor so that controller can construct 2D images from 1D "slice" image signals generated by sensor (334). Such a See Fig. 3-4, Fig. 3-5 and col. 11, lines 13-50.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ackley's symbology reader system (50) to adapt Ehrhart's

detection system (Fig 3.4) including the use of a sensor (334) and a surface (202-3-4) as configured in the Figure because the use of a sensor (334) helps optically read lottery game tickets as taught by Ehrhart.

However, Ackley does not teach, “an attachment arrangement adapted to facilitate attachment and detachment of the device to and from a writing implement having a nib, the sensing device being adapted to sense coded data at least when the nib is in contact with the surface, the nib being adapted to mark the surface”. Yukihiro on the other hand teaches a data symbol reader with a casing (2) having a head part (22) which itself has a casing (3) whose tip part is attached with a cover body (9) in a removable way. See the abstract and drawing 1.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ackley’s symbology reader system (50) to adapt Yukihiro’s removable covering at the tip as configured in drawing 1. Because both Ackley and Yukihiro teach about sensing devices and one of ordinary skill in the art would have looked toward Yukihiro for the manner by which the sensing device is implemented.

Regarding claims 3, Yukihiro teaches the use of a cover body (9) as shown in drawing 1, and one of ordinary skill in the art would have ascertained that the covering could be of any desired design.

Regarding claims 4-5 and 7-8, see Yukihiro’s drawing 1.

Regarding claims 13 and 15 Ackley teaches the use of data collection or bar symbol (53), which refers to a symbol from any linear, stacked, area and other machine-readable symbology. See col. 5, lines 34-46. It would have been obvious that “machine readable symbology” is a phrase wide enough to include tags as coded data.

Regarding claim 14, Ehrhart teaches a sensor (334), and a controller of the apparatus that is in communication with a lookup table correlates ticket identification codes with indicators.  
(see abstract)

***Allowable Subject Matter***

3. Claims 6 and 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abbas I. Abdulselem whose telephone number is (571) 272-7685. The examiner can normally be reached on Monday through Friday from 9:00A.M. to 5:30 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abbas Abdulsalam

Examiner

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November 11, 2005

AMR A. AWAD  
PRIMARY EXAMINER  
